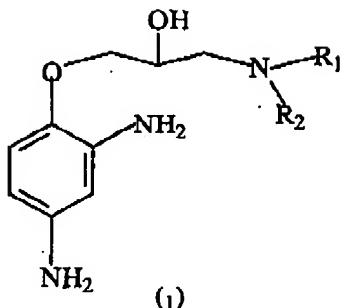


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wherein R₁ is selected from the group consisting of hydrogen atoms, C₁ to C₅ alkyl, C₁ to C₅ mono or dihydroxyalkyl, phenyl or benzyl and R₂ is C₁ to C₅ mono or dihydroxyalkyl.

REMARKS

Claims 1-2 and 25-27 remain pending in the present application. Claims 3-6 have been cancelled. Claims 7- 24 drawn to non-elected subject matter have also been cancelled. Claims 1 and 2 have been amended. New Claims 25, 26 and 27 have been submitted. No new matter has been added. No additional Claim fee is due.

Claims 1, 2 and 4 have been rejected under 35 U.S.C. §102(b) as being clearly anticipated by DE 2,948,093. Claims 1, 2 and 6 have been rejected under 35 U.S.C. §102(b) as being clearly anticipated by Bugaut et al. US 4,888,025. Claims 1, 2, 4 and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over DE 2,948,093. Applicants respectfully traverse the rejections.

It is the Examiner's contention that DE '093 and Bugaut disclose the identical subject matter of the present application. De '093 discloses substituted hydroxypropyl diaminophenol ethers as couplers in hair dye compositions. The hydroxypropyl substitutions include several substituents which potentially overlap with Applicants claimed invention. Bugaut et al also set forth substituted hydroxypropyl substituted phenol compounds which includes several

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substituents which potentially overlap with Applicants Claimed invention. In response thereto, Applicants have amended the claimed invention such that overlapping subject matter has been eliminated. As such Applicants, claimed invention is novel over the compositions set forth in DE '093 and Bugaut et al.

Claims 1, 2, 4 and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over DE 2,948,093. It is the contention of the Examiner that while DE '093 discloses an ethylamino substitution rather than Applicants claimed methylamino substitution, the replacement of the ethyl in DE '093 with a methyl group would have been obvious to one of ordinary skill in the art as there are one carbon homologs and would be expected to display similar properties. Applicants respectfully traverse the rejection.

Claims 1 – 2 as now amended and new claims 25-27 fail to claim any one carbon homologs of the materials set forth in DE '093. Rather, Applicants claims as now amended all include differing classes of substituents than those disclosed in DE '093. Thus, it would not have been obvious to one of ordinary skill in the art to modify the compounds of DE '093 as suggested by the Examiner to arrive at Applicants claimed invention. The compounds set forth in DE '093 are clearly intended for use in oxidation hair dye compositions. As such, most any modification of substituents may significantly alter the resultant performance of the dye compound. The color produced, the depth of the resultant color, the toxicity and the strength of the bond to the hair may all be materially affected by a substituent change on a molecule. Clearly, there can be no expectation of success in the modification of whole substituent's on dye molecules and to attempt to do so is a clear obvious to try standard.

Nor are the claims of the present invention obvious over Bugaut et al. Like DE '093, Bugaut discloses compounds for use as oxidative hair dyes. Again, Applicants claims set forth substituents which include different classes of available substituents than those disclosed in Bugaut.

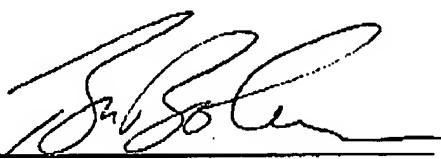
As in DE '093, most any modification of substituents may significantly alter the resultant performance of the dye compound. The color produced, the depth of the resultant color, the toxicity and the strength of the bond to the hair may all be materially affected by a substituent change on a molecule. Clearly, there can be no expectation of success in the modification of whole substituent's on dye molecules and to attempt to do so is a clear obvious to try standard. Accordingly, Claims 1, 2 25, 26 and 27 are novel and unobvious over the prior art of record or any combination thereof.

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Conclusion

In light of the remarks presented herein, Applicants' respectfully submit that Claims 1, 2, 25, 26 and 27 are allowable over the prior art of record or any combination thereof. Reconsideration and reexamination are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned attorney to discuss any remaining issues.

Respectfully submitted,

By 

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January 11th, 2004
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